

REMARKS

Claims 14 and 17-29 were rejected and remain pending. Reconsideration and allowance are respectfully requested.

Double Patenting

Claims 14 and 17-29 were rejected on the ground of non-statutory, obviousness-type double patenting, as being unpatentable in view of claims 3-5 of U.S. Patent 5,991,284 and claims 1 & 2 of U.S. Patent 6,240,071 in view of U.S. Patent No. 5,903,706 to Raith (“Raith”). Applicant respectfully disagrees. However, to expedite prosecution, Applicant points out that Applicant already disclaimed a patent term beyond the expiration date of U.S. Patent 5,991,284 in a Terminal Disclaimer to Obviate Double a Patenting Rejection Under 37 CFR 1.321(c) filed on January 11, 2006, and Applicant is filing concurrently herewith a similar disclaimer in connection with U.S. Patent 6,240,071.

Claim Rejections – 35 USC § 103

Claims 14 & 17-29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Walton et al. (U.S. Patent 5,621,723) (“Walton”) in view of Raith (U.S. Patent 5,930,707) (“Raith”). This rejection is respectfully traversed and reconsideration is requested.

Claim 14 is directed to a method that independently adjusts the transmit power of one or more subchannel signals that are contained in a reverse link signal from “a remote station” (emphasis added). The method includes comparing a frame error rate of each of the subchannel signals with a frame error rate threshold. A power control message is generated for adjusting the power of at least one of the subchannel signals.

The Examiner contends that Walton adjusts the power level of each of a plurality of “subchannels from a mobile (remote station)” (emphasis added). Office Action at p. 5. Applicant respectfully disagrees. Nowhere within any of the text cited by the Examiner does Walton state or infer that the subchannels are from “a mobile (remote station)” (emphasis added) as urged by the Examiner. To the contrary, it is clear from several passages in Walton that the reverse link signal from each of the remote stations comprises only a single subchannel signal. *See, e.g.*, Col.

3, lines 28-26 (“the mobile may select the reverse packet data channel”) (emphasis added); Col. 3, lines 33-34 (“Mobiles that select a specific data rate are required to use a code from the set which is assigned to that channel”) (emphasis added). This is also consistent with the “Background of the Invention” section of the subject application which states that the IS-95 standard – the standard referenced in Walton – uses a “reverse link signal [that] is comprised of a single traffic channel.” Subject Application at p. 2, line 33.

In other words, the multiple, power-regulated subchannels in Walton are what its base station collectively receives from a set of mobiles; however, each mobile only utilizes one of these subchannels. This is in stark contrast to the requirement in Claim 14 for “a reverse link signal from a remote station [that] comprises a plurality of subchannel signals” (emphasis added). Individually controlling the power levels of a set of mobile stations is fundamentally **different** than individually controlling the power levels of a set of subchannel signals from a single mobile station.

Raith is not alleged to make up for this fundamental deficiency in Walton and, in fact, does not do so. Thus, even in combination, Walton and Raith fail to disclose individually adjusting the power level of at least one of several subchannels in a reverse link signal from a remote station, as required by Claim 14.

Claim 14 also requires the frame error rate of each of the subchannels from the remote station to be compared to a frame error rate threshold for generating the power control message. The Examiner acknowledges that this element is not disclosed by Walton. Although Raith does suggest that frame error rate is indicative of channel quality, Raith does not disclose or suggest monitoring the frame error rate of each of the subchannels within a reverse link signal from a remote station. Raith also does not disclose comparing any frame error rate to a frame error rate threshold, let alone doing so for the purpose of generating a power control message. Raith generates a threshold based on the frame error rate -- not vice versa. *See* Col. 18, lines 28-35. These are further deficiencies in the combination of Walton and Raith.

Claims 21, 25, and 29 contain limitations comparable to those that patentably distinguish Claim 14 from the combination of Walton and Raith, as explained above. Thus, these claims are also patentable in view of these references.

Claims 17-20, 22-24, 26, and 27 are dependent upon claims 14, 21, 25, or 29 and this are also patentable in view of Walton and Raith for the same reasons.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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